

REMARKS

Presently claims 1 to 2, 4, 9 to 10, 12 and 14 are under examination. Claims 3, 5 to 8, 11 and 13 are canceled. Claim 14 is new.

1. The Examiner has rejected claims 1, 8 and 12 under 35 U.S.C. §102(b) as being anticipated by Wolff, US 4,287,654, for the reasons noted in paragraph 2 and paragraph 8.

Applicant's prior traverse is incorporated by reference.

Claim 1 has been amended to indicate that the radiation is coherent and is delivered to the treatment area by one or more optical fibers. New Claim 14 includes the radiation being from a laser operating at about 980 nm.

To anticipate the present invention, Wolff must teach each and every element as set forth in the claims. MPEP 2131. A close reading of Wolff will confirm that the reference does not meet the "every element" requirement and thus does not anticipate the present invention. Moreover, the Examiner has not presented a factual basis or objective technical evidence to support a theory of inherency.

The Wolff reference at several locations notes that the tanning lamp being non-coherent may be used for therapeutic purposes but does not detail any operational characteristics or benefits for such. Only for example noting that there is a medical purpose to treat psoriasis, acne and other skin irregularities or diseases with the tanning lamps of that invention. See Col. 1, lines 51 to 53. Further, Wolff teaches the "treatment" of large areas of the body not having any skin problems solely for the purpose of tanning. Wolff further does not use optical fibers to deliver the radiation of concern.

The amended claims describe a method for treating and healing stage 1 and stage 2 wounds, therefore, the present invention is directed towards psoriasis that is still in the early stages of disease progression, i.e., when disease symptoms are limited to red bumps or scales and are not yet open sores. As a chronic skin disorder with a number of different manifestations, the specific symptoms associated with the early

stages of psoriasis or other early stage wounds emphasize the generic and unqualified nature of the Wolff “medical use” teachings.

The Wolff reference is totally directed at an incoherent high intensity non-laser sources such as lamps. See Col. 11, lines 21 to 28.

With this amendment, this rejection of the claims is believed to be removed.

2. The Examiner has rejected claims 1, 2, 4, 6 to 8 and 12 under 35 U.S.C. §102(e) as being anticipated by Whitehurst, US 6,461,866, for the reasons noted in paragraphs 3 and 8.

Applicant’s prior traverse is incorporated by reference.

Applicant has amended Claim 1 to include therein the prior dependent claim directed at the radiation being coherent. New Claim 14 is directed at the coherent radiation being laser radiation of a particular wavelength that was disclosed in the Examples.

The Whitehurst reference is totally directed at an incoherent high intensity non-laser source. See Col. 1, lines 10 to 31.

Thus, unlike the present invention, Whitehurst does not teach or suggest a light source that prevents wound progression or enhances healing of stage 1 or stage 2 wounds.

With this amendment, this rejection of the claims is believed to be removed.

3. The Examiner has rejected claims 2, 4, and 6 under 35 U.S.C. §103(a) as being unpatentable over Wolff (‘554) for the reasons noted in paragraphs 5 and 8.

Applicant’s prior traverses are incorporated by reference.

The *prima facie* case of obviousness has not been established with respect to Wolff because the reference does not suggest, teach, or imply the motivation to combine or modify the reference teachings in order to produce the present invention. Moreover, the reference does not disclose all of the elements of the present invention as set out in the claims. In sum, the present invention is not obvious in view of Wolff because Wolff fails

to suggest the desirability of using coherent radiation and optical fibers to stimulate the physical healing of stage 1 and stage 2 wounds.

Again, applicant has amended Claim 1 as noted above and added new Claim 14 which is directed at laser radiation of the 980 nm wavelength which is clearly outside the range of wavelengths noted and preferred by Wolff. See Col. 1, lines 58 to 67. Col. 3, lines 47 to 62. Wolff notes that the source of radiation is a non-laser source, Col. 2, lines 65 to 67, and it is therefore noncoherent. For the claimed medical applications by Wolff, it notes a wavelength range from 350 to 700 nm with a intensity of 100 mW/cm² for a bandwidth of 25 nm or less. See Col. 3, lines 47 to 53.

It is therefore respectfully asserted that Wolff teaches away from the use of a laser radiation source as is presently claimed.

4. The Examiner has rejected claims 5 under 35 U.S.C. §103(a) as being unpatentable over Whitehurst ('866) for the reasons noted in paragraphs 6 and 8.

Claim 5 has been canceled.

5. The Examiner has rejected claims 9 and 10 under 35 U.S.C. § 103(a) as being unpatentable over Whitehurst ('866) in view of Talmore (US 5,344,433) for the reasons noted in paragraph 7.

Applicant incorporates by reference prior traverses.

It is to be noted that both Whitehurst and Talmore use noncoherent light sources. Claim 1 has been amended to indicate that the radiation is coherent in the present invention as was presented in a prior dependent claim.

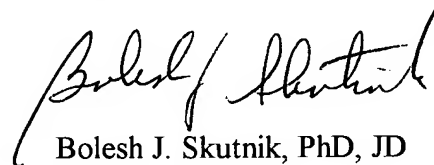
In view of the unpredictability of tissue-light interactions and the differences between various wound types, there is no reasonable expectation of success that combining the teachings of Whitehurst and Talmore would prevent wound progression or enhance wound healing in stage 1 and/or stage 2 wounds associated with spider bites and other insect bites, bee stings, rashes, poison ivy, poison oak, acne, and eczema. Without a

reasonable expectation of success, the present invention is not made obvious by Whitehurst in view of Talmore.

With these changes and remarks, it is believed that the disclosure is now in condition for allowance and reconsideration is respectfully requested. An early and favorable response is earnestly solicited. Thank you.

Respectfully submitted,

Dated: June 21, 2005

A handwritten signature in cursive script, appearing to read "Bolesh J. Skutnik".

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